



Treasurer Shawn T. Wooden

TESTIMONY SUBMITTED TO THE PUBLIC HEALTH COMMITTEE

MARCH 14, 2022

Senator Daugherty Abrams, Representative Steinberg, Senator Hwang, Senator Somers, and Representative Petit, and distinguished members of the Environment Committee, thank you for the opportunity to submit testimony regarding **Senate Bill 376 An Act Concerning The Department of Developmental Services' Recommendations Regarding ABLE Accounts.**

The Achieving a Better Life Experience (ABLE) Act, signed into law by President Obama in 2014, enabled states to pass their own ABLE legislation authorizing the creation of a federally tax-advantaged savings program for individuals living with a disability. Connecticut passed such legislation in 2015. Implemented and administered by Treasurer Wooden, Connecticut's ABLE program, ABLE CT, is designed to help individuals living with a disability save for a better future by covering disability-related expenses without jeopardizing their eligibility to receive federal benefits, such as Medicaid and Supplemental Security Income (SSI).

ABLE CT also exempts the moneys invested in an individual ABLE account from being considered for purposes of determining an individual's eligibility for a number of state-administered programs. This bill adds the state-administered general assistance program to that list. This change will ensure that the purpose of ABLE – allowing individuals living with a disability to save for the future without jeopardizing crucial assistance – is fully realized. Allowing ABLE assets to be considered would run counter to the goals of the program.

Additionally, I respectfully request that the committee consider substitute language to align ABLE CT with two recent federal regulatory changes. The enclosed language authorizes individuals beyond the designated beneficiary and their parent or guardian to open an ABLE CT account on behalf of an individual. This change brings ABLE CT rules in line with recent federal ABLE regulations, which provide for a range of individuals to establish an ABLE account for an eligible beneficiary. The language also allows for self-certification, which was previously unavailable under state law but included in the federal ABLE regulations as well. These changes will increase the number of ABLE CT accounts and expand accessibility to this important program.

Thank you for the opportunity to submit testimony regarding **S.B. 376**. As always, my office is available to answer any questions you may have.

Sec. 3-39j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2022*):

- (1) "Achieving a better life experience account" or "ABLE account" means an account established and maintained pursuant to sections 3-39k to 3-39q, inclusive, for the purposes of paying the qualified disability expenses related to the blindness or disability of a designated beneficiary.
- (2) "Deposit" means a deposit, payment, contribution, gift or other transfer of funds.
- (3) "Depositor" means any person making a deposit into an ABLE account pursuant to a participation agreement.
- (4) "Designated beneficiary" means any eligible individual who [has established an ABLE account under a qualified ABLE program and] is the owner of [such] an ABLE account established under a qualified ABLE program.
- (5) "Disability certification" means, with respect to an individual, a certification to the satisfaction of the Secretary of the Treasury of the United States by the individual, or the parent or guardian of the individual, or an individual establishing an ABLE account pursuant to C.G.S. 3-39k(g) that (A) certifies that (i) the individual has a medically determinable physical or mental impairment, that results in marked and severe functional limitations, and that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than twelve months, or is blind within the meaning of Section 1614(a)(2) of the Social Security Act, and (ii) such impairment or blindness occurred before the date on which the individual attained the age of twenty-six, and (B) includes a copy of the individual's diagnosis relating to the individual's relevant impairment or blindness that is signed by a physician who is licensed pursuant to chapter 370 or, to the extent permitted by federal law, (i) an advanced practice registered nurse who is licensed pursuant to chapter 378, or (ii) if the individual's impairment is blindness, an optometrist licensed pursuant to chapter 380.
- (6) "Eligible individual" means an individual who is entitled to benefits during a taxable year based on blindness or disability under Title II or XVI of the Social Security Act, and such blindness or disability occurred before the date on which the individual attained the age of twenty-six, [provided] and a disability certification with respect to such individual or self-certification is filed with the State Treasurer for such taxable year.
- (7) "Federal ABLE Act" means the federal ABLE Act of 2014, P.L. 113-295, as amended from time to time.
- (8) "Participation agreement" means an agreement between the trust established pursuant to section 3-39k and depositors that provides for participation in an ABLE account for the benefit of a designated beneficiary.
- (9) "Qualified disability expenses" means any expenses related to an eligible individual's blindness or disability that are made for the benefit of an eligible individual who is the designated beneficiary, including the following expenses: Education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses, and other expenses that are approved by the Secretary of the Treasury of the United States under regulations adopted by the Secretary pursuant to the federal ABLE Act.

(10) Self-certification means a certification to the satisfaction of the Secretary of the Treasury of the United States by an individual establishing an ABLE account pursuant to this act under penalties of perjury that (A) certifies that (i) the individual has a medically determinable physical or mental impairment, that results in marked and severe functional limitations, and that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than twelve months, or is blind within the meaning of Section 1614(a)(2) of the Social Security Act, and (ii) such impairment or blindness occurred before the date on which the individual attained the age of twenty-six, and (iii) that the person establishing the account is the individual who will be the designated beneficiary of the account or is the person authorized under C.G.S. 3-39k(g) and (B) includes the applicable diagnostic code from those listed on Internal Revenue Service Form 5498-QA identifying the type of the individual's impairment.

Sec. 3-39k. Achieving a better life experience program: Establishment. Trust. Report. (a) The State Treasurer (1) shall establish a qualified ABLE program pursuant to the federal ABLE Act and sections 3-39j to 3-39q, inclusive, and (2) may contract with any state with a qualified ABLE program established pursuant to the federal ABLE Act to provide residents of this state with access to such state's program.

(b) (1) Under the program established pursuant to subdivision (1) of subsection (a) of this section: (A) The State Treasurer shall administer individual ABLE accounts to encourage and assist eligible individuals and their families in saving private funds to provide support for eligible individuals, and (B) a person may make contributions to an individual ABLE account to meet the qualified disability expenses of the designated beneficiary of the account.

(2) For the purposes of such program, there is established within the Office of the State Treasurer the Connecticut Achieving A Better Life Experience Trust. The trust shall constitute an instrumentality of the state and shall perform essential governmental functions, as provided in sections 3-39j to 3-39q, inclusive. The trust shall receive and hold all payments and deposits intended for ABLE accounts as well as gifts, bequests, endowments or federal, state or local grants and any other funds from public or private sources and all earnings, until disbursed in accordance with sections 3-39j to 3-39q, inclusive.

(c) (1) The amounts on deposit in the trust shall not constitute property of the state and the trust shall not be construed to be a department, institution or agency of the state. Amounts on deposit in the trust shall not be commingled with state funds and the state shall have no claim to or against, or interest in, such amounts, except as provided in subdivision (2) of this subsection. Any contract entered into by, or any obligation of, the trust shall not constitute a debt or obligation of the state and the state shall have no obligation to any designated beneficiary or any other person on account of the trust and all amounts obligated to be paid from the trust shall be limited to amounts available for such obligation on deposit in the trust. The amounts on deposit in the trust may only be disbursed in accordance with the provisions of sections 3-39j to 3-39q, inclusive.

(2) The trust shall continue in existence as long as it holds any deposits or other funds or has any obligations and until its existence is terminated by law, and upon termination of the trust, any unclaimed assets of the trust shall return to the state. Property of the trust shall be governed by section 3-61a.

(d) The State Treasurer shall be responsible for the receipt, maintenance, administration, investment and disbursements of amounts from the trust. The trust shall not receive deposits in any form other

than cash. No depositor or designated beneficiary may direct the investment of any contributions or amounts held in the trust other than in the specific fund options provided for by the trust and shall not direct investments in such specific fund options more than two times in any calendar year. No interest, or portion of any interest, in the program shall be used as security for a loan.

(e) A person may make deposits to an ABLE account to meet the qualified disability expenses of the designated beneficiary of the account, provided the trust and deposits meet the other requirements of this section, the federal ABLE Act and any regulations adopted pursuant to the federal ABLE Act by the Secretary of the Treasury of the United States.

(f) On or before December 31, 2017, and annually thereafter, the State Treasurer shall submit (1) in accordance with the provisions of subsection (a) of section 3-37, a report to the Governor on the operations of the trust, including the receipts, disbursements, assets, investments and liabilities and administrative costs of the trust for the prior fiscal year, and (2) in accordance with the provisions of section 11-4a, a report on the trust and any contract entered into pursuant to subdivision (2) of subsection (a) of this section to the joint standing committees of the General Assembly having cognizance of matters relating to finance and public health, and shall make such report available to each depositor and designated beneficiary. The report required under subdivision (2) of this subsection shall include, but need not be limited to: (A) The number of ABLE accounts; (B) the total amount of contributions to such accounts; (C) the total amount and nature of distributions from such accounts; and (D) a description of issues relating to the abuse of such accounts, if any.

(g) An ABLE account may be established by (1) the eligible individual; (2) a person selected by the eligible individual; or (3) if an eligible individual is unable to establish his or her own ABLE account, an ABLE account may be established on behalf of the eligible individual by the eligible individual's agency under a power of attorney or, if none, by a conservator or legal guardian, spouse, parent, sibling, grandparent of the eligible individual, or a representative payee appointed for the eligible individual by the Social Security Administration, in that order.